

January 21, 2011

GALLATIN COUNTY

311 West Main, Rm. 306 • Bozeman, MT 59715

Senate Local Govt. Comm.
Exhibit # County Commission 3

Date 1-21-2011

Bill No. William A. Madslock
913 150

Joe P. Skinner

Steve White

Phone (406) 582-3000

FAX (406) 582-3003

Senator Jon Sonju, Chairman
Senate Local Government Committee

Mr. Chairman and Distinguished Senators:

On behalf of the Gallatin County Commission, the Gallatin County Elected Officials and the volunteer citizens who serve as trustees on Special District Governing Boards; we would like to express our opposition to Senate Bill 150. If this bill should become law it has the real potential to alter the democratic decision making process in local government.

Frequently in Gallatin County we are threatened by law suits to sway the opinion of commissioners making decisions. There are many examples of us being threatened by both sides of an issue, so we know going into a hearing that whatever decision we render it will be challenged in court by the opposing side. Under this law the decision making of local officials would definitely be altered and influenced by the threat of personal law suits. Not so much the risk of actually breaking the law or doing something contrary to statute, but the risk of spending large amounts of personal resources to defend one's self even if you are eventually proven to be right. Not to mention the stress and energy it would exert on one's family.

To explain the implications of this legislation we would offer an example of a simple gravel pit. On one hand if three County Commissioners deny a gravel pit application then they will be subject to personal litigation by the gravel company. On the other hand, if they approve the gravel pit then they will be subject to personal litigation by residents or environmental groups.

We believe almost 100% of Local Officials run for office to truly represent and serve their community. Why would anyone run for office at the risk of having to personally defend every controversial decision? If this bill is needed and necessary to protect citizens from lawmakers and policy makers, then why is the legislature exempt from it? This is the type of process that appalls voters, when the legislature passes laws that exempts themselves from laws that affect others.

Another item this bill fails to address is what would make an elected official liable? No local government commission or board makes a decision on their own; it is always by a majority. Would the language of this bill mean that on a three member commission if two vote no but one votes yes then only two voting no would be liable for the decision if sued by the applicant who was denied?

The long term impact of this bill will likely only increase the cost of government as pay for elected officials, trustees and employees will increase so they can afford additional insurance against personal lawsuits.

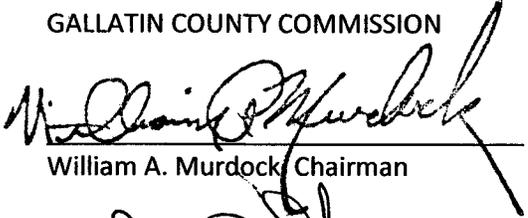
Additionally the unintended consequences of this legislation will be a dramatic increase in the regulatory provisions established by governments and agencies because flexibility and discretion will only open up more opportunities for an elected official to be sued.

We also believe this law would be detrimental to the political process, giving attorneys much more leverage than the rest of the citizenry. Do we really want attorneys influencing political decisions and policy at the local level with threats and filings of personal law suits?

This bill was conceived by attorneys, proposed and submitted by an attorney for the financial benefit of lawyers and the ability for them to influence local policy and decisions. We respectfully request you vote no on Senate Bill 150.

Sincerely,

GALLATIN COUNTY COMMISSION



William A. Murdock, Chairman



Joe P. Skinner, Member



R. Stephen White, Member